

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: §
§
VIVALDI MUSIC ACADEMY, LLC § Case No. 19-33978-H3
§
Debtor. § Chapter 11

**MOTION FOR ORDER (I) PROHIBITING UTILITY PROVIDERS FROM ALTERING,
REFUSING OR DISCONTINUING SERVICES AND (II) ESTABLISHING
PROCEDURES FOR DETERMINING REQUESTS
FOR ADDITIONAL ADEQUATE ASSURANCE**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THIS MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN TWENTY-ONE (21) DAYS FROM THE DATE THAT THIS MOTION WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED; IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

To the Honorable Eduardo V. Rodriguez:

Vivaldi Music Academy, LLC. (hereinafter "VMA"), Debtor and Debtor-in-Possession, by and through its undersigned proposed counsel, who hereby files this emergency motion (the "Motion"), for order (i) prohibiting utility providers from altering, refusing or discontinuing services and (ii) establishing procedures for determining requests for additional adequate assurance (the "Motion"). In support thereof, VMA would show as follows:

SECTION I
JURISDICTION & VENUE

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. Section 157 and Section 1334. This Motion is a core proceeding pursuant to 28 U.S.C. Section 157(b). Venue is proper pursuant to 28 U.S.C. Section 1408 and 1409.

SECTION II
STATEMENT OF THE CASE & EMERGENCY CONSIDERATION

2. VMA filed a voluntary petition for relief on July 18, 2019 under Chapter 11 of Title 11, United States Code 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”). The Debtor’s case is pending before the United States Bankruptcy Court for the Southern District of Texas, Houston Division.

3. Pursuant to Bankruptcy Code 1107(a) and 1108, the VMA is operating and managing its property as debtor in possession. No trustees or examiners have been appointed in this case. VMA is a Texas limited liability company incorporated on June 25, 2012. VMA is a manager managed limited liability company whose manager is Zeljko Pavlovic (“Pavlovic”), who has managed VMA since its inception and is also the sole member.

4. VMA currently obtains services for water, sewage, electricity and similar utility providers (the "Utilities"). VMA requests expedited consideration of this Motion as the 20-day period in which the Utilities are prohibited from terminating service will expire August 7, 2019. Given the termination of the initial stay granted under section 366 of the Bankruptcy Code and VMA’s need of continued utility services, VMA believes that expedited consideration is warranted.

5. VMA will supplement this motion by attaching a list of names and addresses of known Utilities that were providing services to VMA as of the petition date prior to the anticipated hearing date of this motion (the “Utility Provider List”).

SECTION III **RELIEF SOUGHT & LEGAL AUTHORITIES**

6. VMA seeks an order (i) prohibiting the Utilities from altering, refusing and discontinuing services on account of prepetition invoices and (ii) establishing procedures for determining requests for additional adequate assurance pursuant to section 366 of the Bankruptcy Code. VMA requests the approval of the following procedures:

Proposed Adequate Assurance

- Any Utility that is currently holding a pre-petition security deposit shall retain the deposit (the "Existing Deposit") in lieu of receiving a New Deposit.

Procedures for Requesting Additional Adequate Assurance

- If any Utility is unsatisfied with VMA's proposed adequate assurance, it must (i) file a motion with the Bankruptcy Court requesting additional adequate assurance and clearly setting forth the basis for the request and (ii) set a motion for hearing no earlier than 30 days after the filing of the motion.
- Absent further order, pursuant to a motion seeking additional adequate assurance or otherwise, all Utilities are prohibited from interfering with, disturbing, or discontinuing services to VMA on account of this bankruptcy case and/or any unpaid invoices for prepetition services.

7. 11 U.S.C. § 366 prohibits a utility company from altering or discontinuing services with respect to a debtor during the first 20 days of its bankruptcy filing based upon (i) the debtor's commencement of a chapter 11 case or (ii) a pre-petition payment default. Upton the expiration of the 20 day period, utility companies may alter, refuse, or discontinue services if the debtor does not furnish adequate assurance of payment of postpetition utility service obligation.

8. VMA believes the proposed procedures above are fair and protect both VMA and the Utilities as each Utility is provided adequate assurance in the form of a New Deposit or Existing Deposit.

9. VMA proposes to mail a copy of the attached order to all Utilities within 10 days of its entry. Should VMA discover any additional Utilities not already listed on the Utility Provider List, VMA shall promptly serve a copy of the Motion and Order on those Utilities. For any Utility identified after the filing of this Motion, VMA requests that the prohibitions and procedures set forth herein be extended to those Utilities without further order of the Court.

WHEREFORE, Vivaldi Music Academy, LLC respectfully requests that this Court enter an order (i) prohibiting Utilities from altering, refusing and discontinuing services on account of prepetition invoices and (ii) establishing procedures for determining requests for additional adequate assurance and, (iii) for such other relief as is equitable and just.

Dated: July 18, 2019

CORRAL TRAN SINGH, LLP

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**PROPOSED ATTORNEYS
FOR VIVALDI MUSIC ACADEMY, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2019 the following parties below and attached creditor matrix were served a true and correct copy of the foregoing Motion via First Class Mail, facsimile, or electronic notice.

/s/Susan Tran
Susan Tran

VERIFICATION OF TRANSMITTAL TO U.S. TRUSTEE

The undersigned, an attorney, under penalties of perjury, verifies that a copy of the Motion was delivered to the United States Trustee on July 18, 2019 by electronic delivery by the clerk of the Bankruptcy Court.

/s/Susan Tran
Susan Tran